

**MINUTES OF THE OPEN SESSION  
OF THE RHODE ISLAND ETHICS COMMISSION**

**March 21, 2006**

**The Rhode Island Ethics Commission held its 6th meeting of 2006 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, March 21, 2006, pursuant to the notice published at the Commission Headquarters and at the State House Library.**

**The following Commissioners were present:**

**James Lynch, Sr., Chair\* James C. Segovis**

**George E. Weavill, Jr., Secretary Frederick K. Butler\***

**Richard E. Kirby\* Ross Cheit**

**Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Staff Attorney/Education Coordinator; Staff Attorneys Dianne Leyden and Macall Robertson; and, Commission Investigators Steven T. Cross, Peter J. Mancini, and Michael Douglas.**

**At approximately 9:15 a.m., the Chair opened the meeting.**

**The first order of business was to approve the minutes of the Open Session held on March 7, 2006. Commissioners Segovis and Cheit noted corrections to pages seven and two, respectively. Upon motion made by Commissioner Cheit, duly seconded by Commissioner Segovis, it was unanimously**

**VOTED: To approve the minutes of the Open Session held on March 7, 2006, as corrected.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James C. Segovis, and Ross Cheit.**

**The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.**

**The first advisory opinion was that of Michael A. Ursillo, the Town Solicitor for the Town of South Kingstown. The petitioner was present. Staff Attorney Gramitt presented the Commission Staff recommendation.**

**Staff Attorney Gramitt disclosed that he is familiar with, and has been to, the property that is the subject of this advisory opinion as it was once owned by his former law firm. He stated that he no longer has any association with the law firm and believes that the law firm no**

longer has any ownership in the property.

The petitioner informed that when he assisted the Town with the loan program, he had no idea he would later take advantage of it. In response to Commissioner Kirby, the petitioner stated that his assistance to the Town did not include setting up a local screening process for participation in the loan program. He represented that inspections were conducted on resident disposal systems and that failing systems were given one to five years to upgrade their system. He informed that Rhode Island Housing, not the Town, set up the criteria for qualifying for the loan program.

The petitioner explained that the RICWFA made a loan in the amount of \$900,000 available to the Town, which is the primary guarantor. He stated that the residents who obtain the loan are secondary guarantors and that the Town would ultimately be responsible for the loan if a resident did not repay it. In response to Commissioner Kirby, the petitioner informed that no one in the Town would be reviewing his loan application and that any resident seeking information about the loan program from the Town is given Rhode Island Housing's telephone number.

In response to Commissioner Kirby, the petitioner informed that he just reviewed the loan agreement. In response to Commissioner Weavill, the petitioner informed that he did not draft the loan agreement. The petitioner stated that he did help draft the ordinance

and that the Town received federal grants to implement part of the ordinance. The petitioner informed that there is no waiting list for the loan program at this time and that all residents qualify for it if they meet set criteria. He further informed that the ordinance does not impact all residents of the Town. He related that he received notice that his cesspool must be updated, based upon an independent inspector's report to the Town that his system failed.

Upon motion made by Commissioner Segovis, duly seconded by Commissioner Kirby, it was unanimously

**VOTED:** To issue an advisory opinion, attached hereto, to Michael A. Ursillo, the Town Solicitor for the Town of South Kingstown.

**AYES:** James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James C. Segovis, and Ross Cheit.

At approximately 9:30 a.m., upon motion was made by Commissioner Butler, duly seconded by Commissioner Weavill, it was unanimously

**VOTED:** To go into Executive Session pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (a)(4), to wit:

a.) To approve the minutes of Executive Session held on March 7, 2006.

**b.) In re: Stephen Durkee, Complaint No. 2005-21.**

**c.) Discussion regarding T. Brian Handrigan v. RIEC, C.A. No. PC05-3759.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., Richard E. Kirby, James C. Segovis, and Ross Cheit.**

**\* At approximately 9:45 a.m., during the Executive Session, Commissioner Butler arrived at the meeting.**

**At approximately 10:30 a.m., the Commission returned to Open Session.**

**Chair Lynch reported out that in Executive Session the Commission took the following action:**

**1.)In the matter of In re: Stephen Durkee, Complaint No. 2005-21:**

**a. That no action was taken on a motion to find that no probable cause exists to find that the Respondent violated R.I. Gen. Laws § 5(a) by his participation in the Providence City Plan Commission's February 17, 2004 vote to recommend the expansion of the Armory Local Historic District;**

**b. That no action was taken on a motion to find that no probable**

**cause exists to find that the Respondent violated R.I. Gen. Laws § 5(d) by his participation in the Providence City Plan Commission's February 17, 2004 vote to recommend the expansion of the Armory Local Historic District;**

**c. That the Commission voted to reconsider probable cause at a later date.**

**2.) It was reported that the Plaintiff filed a motion for summary judgment in the matter of T. Brian Handrigan v. RIEC, C.A. No. PC05-3759.**

**\* At approximately 10:31 a.m., Commissioner Kirby left the meeting.**

**The next order of business was to seal the minutes of the Executive Session held on March 21, 2006. Upon motion made by Commissioner Weavill, duly seconded by Commissioner Segovis, it was unanimously**

**VOTED: To seal the minutes of the Executive Session held on March 21, 2006.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Frederick K. Butler, and Ross Cheit.**

**The next order of business was the advisory opinion of David Coutu,**

a member and Chair of the Cumberland Planning Board. The petitioner and William DiLibero, the Director of the Cumberland Planning and Community Development Department, were present. Staff Attorney Robertson presented the Commission Staff recommendation. She recommended that the draft opinion be amended on page 5 to change Planning “Commission” to Planning “Board.”

\* At approximately 10:40 a.m., Commissioner Kirby returned to the meeting.

Mr. DiLibero informed that the Planning Department had attempted to obtain an intern to temporarily fill the Town Planner position. In response to Commissioner Weavill, Mr. DiLibero informed that he is Director of Cumberland’s Planning and Community Development Department and reports to the Mayor. He stated that the petitioner meets the requirements for the Town Planner position, as he has an engineering degree and experience in planning. He informed that the unqualified candidate had a political science degree. He stated that he did not see any problem with the petitioner working on projects as Town Planner that may later come before him as a member of the Planning Board.

In response to Commissioner Weavill, Mr. DiLibero informed that he personally is responsible for meeting with developers and that 80% of all meetings with developers are with him. Commissioner Weavill

expressed concern that the petitioner would not have an arms-length relationship with the developers when he returns to the Board. He stated that such vacancies are not unusual in municipalities and that there are consulting firms that would take on such responsibilities for a fee. Mr. DiLibero related that Cumberland does have contracts with engineering firms to review certain proposals. He stated that the Town Planner's duties would include administrative functions and smaller development projects. He informed that he did not try to bring in an engineering consultant because it likely would be cost prohibitive.

In response to Commissioner Butler, Staff Attorney Robertson confirmed the revolving door hardship exceptions do not apply, and such information was provided in the analysis for comparison purposes.

\* At approximately 10:53 a.m., Commissioner Kirby left the meeting.

In response to Commissioner Cheit, the petitioner informed that he could recuse himself from any matter before the Board he was involved in as Planner if that were proper. He pointed out that he would represent the interests of the Town Cumberland as Town Planner, not any private interest. In response to Commissioner Segovis, Staff Attorney Robertson informed that the opinion did not contain recusal language as the petitioner would only have to recuse from matters before the Board in which there would be a direct



financial impact to him. She stated that there would be no conflict due to his representation of the Town's interest as Planner and Planning Board member.

Commissioner Weavill pointed out that the Planning Department does not always represent the Town's interests. Commissioner Butler noted that this opinion would not provide the petitioner with any safe harbor once he returns to the Board and that he would have to seek additional advice regarding future recusals. In response to Chair Lynch, Mr. DiLibero informed the Planning Department consists of a clerk, the Town Planner, and himself. In response to Commissioner Weavill, Mr. DiLibero stated that the person the petitioner would be replacing is not an engineer.

**\* At approximately 10:51 a.m., Chair Lynch left the meeting.**

The petitioner informed that he worked for North Kingstown as an Assistant Town Engineer and that he has knowledge and background in planning, but not a planning degree. Mr. DiLibero related that if the petitioner takes the position he would take on some of the tasks handled by the Town Planner, such as grants. The petitioner informed that there are nine members on the Planning Board.

**\* At approximately 10:53 a.m., Chair Lynch returned to the meeting.**

Upon motion made by Commissioner Butler, duly seconded by

**Commissioner Cheit, it was**

**VOTED: To issue an advisory opinion, attached hereto, to David Coutu, a member and Chair of the Cumberland Planning Board, as amended to change “Commission” to “Board” on page 5.**

**AYES: James Lynch, Sr., James C. Segovis, Frederick K. Butler, and Ross Cheit.**

**NOES: George E. Weavill, Jr.**

**RECUSAL: Richard E. Kirby.**

**Chair Lynch informed the petitioner that no advisory opinion would be issued and that the safe harbor provided by the draft opinion is withdrawn.**

**The next order of business was discussion of Commission Regulations. There was nothing to report regarding the regulation subcommittees.**

**The next order of business was the Director’s Report. Executive Director Willever reported there were 5 pending advisory opinions and 6 pending complaints. In response to Commissioner Weavill, Executive Director Willever informed that there are no non-filing complaints pending. In response to Commissioner Segovis, he**

**informed that the financial disclosure compliance rate was 62% when he first started working for the Commission and that it is now 93%. In response to Commissioner Weavill, Executive Director Willever reported that the Staff is still working out issues as they arise regarding the implementation of the new financial disclosure law.**

**Executive Director Willever thanked Commission Investigators Steven Cross and Michael Douglas for the security training they recently conducted for the Commission Staff. He informed that the Commission office received new cubicle walls from the Treasury offices at no cost to the Commission. He also thanked Commissioners Cheit and Lynch for their recent participation on ethics panels. He reported that the 2005 Financial Disclosure Statements were mailed and that the Staff is fielding related telephone inquiries.**

**The next order of business was New Business. There was none.**

**At approximately 11:10 a.m., upon motion made by Commissioner Butler, duly seconded by Commissioner Segovis, it was unanimously**

**VOTED: To adjourn the meeting.**

**AYES: James Lynch, Sr., George E. Weavill, Jr., James C. Segovis, Frederick K. Butler, and Ross Cheit.**

**Respectfully submitted,**

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**George E. Weavill, Jr.**  
**Secretary**